

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

INDIANA GRQ, LLC

Plaintiff,

v.

CAUSE NO. 3:21-cv-227 DRL

AMERICAN GUARANTEE AND
LIABILITY INSURANCE COMPANY *et*
al.,

Defendants.

FINAL PRETRIAL ORDER

Pursuant to the Court's May 23, 2022 Order [ECF 86], the parties to this action have agreed as follows:

1. **Jurisdiction.** The parties concede and the court confirms jurisdiction exists. *See* 28 U.S.C. 1332(a).
2. **Issues to be Tried.** The case is at issue on Plaintiff's complaint and Defendant Insurers' respective answers and affirmative defenses.
 - a. Did the Defendant Insurers breach their contracts of insurance by denying coverage for the full costs of replacing damaged electrical equipment at the Facility and by not fully remediating the PCB contamination at the Facility?
 - i. What are IRG's damages from Defendant Insurers' breach of contract?
 - b. Did Defendant Insurers act in bad faith by their actions in responding to IRG's claims for coverage?
 - i. What are IRG's damages for Defendant Insurers' bad faith?

3. **Factual and Legal Contentions.**

See attached Exhibit A [ECF 139-1].

4. **Stipulations.**

See attached Exhibit B [ECF 139-2]

5. **Witness Lists.**

a. **Plaintiffs**

1. Marcus McNeill, Site Manager – Industrial Realty Group, LLC

- a. 574-276-0662
- b. 701 West Chippewa Avenue South Bend, IN.
- c. Case in chief
- d. Live Testimony

2. Dan Wilson, President – Inserv

- a. 877-917-3239
- b. 514 E Marion St, Mishawaka, Indiana, 46545
- c. Case in chief
- d. Live Testimony

3. Thomas Lovisa, Vice President – Inserv

- a. 877-917-3239
- b. 514 E Marion St, Mishawaka, Indiana, 46545
- c. Case in chief
- d. Live Testimony

4. Terry Barker, General Manager – Inserv

- a. 877-917-3239

- b. 514 E Marion Street, Mishawaka, Indiana 46546
 - c. Rebuttal/Impeachment Witness
 - d. Live Testimony
- 5. Jeff Pope – Burns & McDonnell, Downers Grove, IL
 - a. 630-724-3328 // 630-803-0274
 - b. 1431 Opus Place, Suite 400, Downers Grove, IL 60515
 - c. Case in chief
 - d. Live Testimony
- 6. Steve Benson, Project Manager – Herrman & Goetz, Inc.
 - a. 574-282-2596
 - b. 3419 North Home Street, Mishawaka, IN 46545
 - c. Case in chief
 - d. Live Testimony
- 7. Adam Breden – Elite Electrical
 - a. 574-993-0363
 - b. 50654 Teall Road, Bristol, IN 46507
 - c. Case in chief
 - d. Live Testimony
- 8. Justin Lichter, Vice President – Industrial Realty Group, LLC
 - a. 530-426-2226
 - b. 11111 Santa Monica Blvd, Suite 800, Los Angeles, CA 90025
 - c. Case in chief
 - d. Live Testimony

9. Mark Miley, Vice President, Chief Operating Officer, Chief Financial Officer – IRG Realty Advisors LLC
 - a. 330-659-7122
 - b. 4020 Kinross Lakes Parkway, Suite 200 Richfield, Ohio 44286
 - c. Case in chief
 - d. Live Testimony
10. Micah Thoman, National General Adjuster - Charles Taylor, Phoenix, AZ
 - a. 224-520-0588
 - b. 2333 North 44th Street, Suite 306, Phoenix, AZ 85018
 - c. Case in chief
 - d. Live Testimony
11. Stuart Stromeyer – Retired, formerly McLarens
 - a. 832-498-8324
 - b. 6932 Hilo Way Diamondhead, Mississippi 39525
 - c. Case in chief
 - d. Live Testimony
12. Shawn Keating – Formerly Zurich; currently HDI Global
 - a. 317-537-2147 // 317-691-7661
 - b. 161 North Clark Street, 48th Floor, Chicago, IL 60601
 - c. Case in chief
 - d. Live Testimony
13. Keith Hargan – Interstate Fire & Casualty
 - a. 415-899-4586

- b. 777 San Marin Drive, #2160, Novato, CA 94945
 - c. Case in Chief
 - d. Live Testimony
- 14. Jeffrey Pikel, Managing Partner – DeHayes Group
 - a. 260-424-5600
 - b. 11118 Coldwater Rd, Fort Wayne, IN 46845
 - c. Case in chief
 - d. Live Testimony
- 15. Ben Rosolowski – CPI Group
 - a. 216-525-0046
 - b. P.O. Box 25411 Cleveland, Ohio 44125
 - c. Case in chief
 - d. Live Testimony
- 16. Edwin Wickman – ABB, Ltd.
 - a. 248-921-2796
 - b. 1250 Brown Road, Auburn Hills, MI 48326
 - c. Case in chief
 - d. Live Testimony
- 17. Ian Ostrowski – Graybar
 - a. 216-525-0046
 - b. PO Box 25411, Cleveland, OH 44125
 - c. Case in chief
 - d. Live Testimony

18. Lacey R. Lord – Overhead Door Company

- a. 574-259-2822
- b. 58745 Executive Dr., Mishawaka, IN 46514, US
- c. Case in chief
- d. Live Testimony

19. Quentin Gudeman – Premier Power

- a. 317-879-0660
- b. 4053 Championship Drive, Indianapolis, IN 46268
- c. Case in chief
- d. Live Testimony

20. Joseph W. Wallwork, PE, CCP, PSP, CFCC, FAACE - Nautilus
Consulting

- a. 617-292-2079
- b. 6800 Jericho Tpke, Suite 216E, Syosset, NY 11791, US
- c. Case in chief
- d. Live Testimony

21. Tod Delaney, President and Plaintiff's Environmental Expert – First
Environment

- a. 973-334-0003
- b. 10 Park Place, Building 1A, Suite 504, Butler, New Jersey 07405
- c. Case in Chief
- d. Live Testimony

22. David Frangiamore, President and Plaintiff's Insurance Expert – 2nd
Insight, Inc.

- a. 510-769-8077
- b. 18181 Corte De Aceitunos, San Diego, CA 92128
- c. Case in Cheif
- d. Live Testimony

23. Ken Kutchek, PE, CFEI – Robson Forensic

- a. 800-654-4344
- b. 4150 Tuller Road, Suite 216, Dublin, OH 43017
- c. Case in Chief
- d. Live Testimony

b. Certain Insurers

1. Mark Miley, CFO - Industrial Realty Group, LLC

- a. 4020 Kinross Lakes Parkway, Suite 200 Richfield, Ohio 44286
- b. Telephone Number Unknown
- c. Certain Insurers intends to call Mr. Miley live and during their
case in chief.

2. Peter Yanson, Vice President - Industrial Realty Group, LLC

- a. 4020 Kinross Lakes Parkway, Suite 200, Richfield, Ohio 44286
- b. Telephone Number Unknown
- c. Certain Insurers intend to call Mr. Yanson live and during their
case in chief.

3. Justin Lichter, Vice President - Industrial Realty Group, LLC

- a. 4020 Kinross Lakes Parkway, Suite 200, Richfield, Ohio 44286
 - b. Telephone Number Unknown
 - c. Certain Insurers intend to call Mr. Lichter live and during their case in chief.
4. Jeffrey J. Pikel (title unknown) - The DeHayes Group
- a. 11118 Coldwater Road, Fort Wayne, Indiana 46845
 - b. 264-424-5600
 - c. Certain Insurers may call Mr. Pikel live and during their case in chief for impeachment.
5. Jerry Graf (title unknown) - Industrial Realty Group, LLC
- a. 701 W. Chippewa Avenue, South Bend, IN 46614
 - b. Telephone Number Unknown
 - c. Certain Insurers intend to call Mr. Graf live and during their case in chief.
6. Kenneth McDaniel, Senior Project Manager - Indiana Department of Environmental Management
- a. 100 N. Senate Street, Indianapolis, IN 46204
 - b. 317-234-9581
 - c. Certain Insurers may call Mr. McDaniel live and during their case in chief for impeachment.
7. Jeffery Pope, Program Manager - Burns & McDonell
- a. 1431 Opus Drive, Suite 400, Downers Grove, IL 60515
 - b. 630-724-3700

- c. Certain Insurers intend to call Mr. Pope live and during their case in chief.
- 8. Michael Schroader (Title Unknown) - KCOM Environmental
 - a. 1021 E. Wallace Street, Fort Wayne, IN 46803
 - b. 260-745-0520
 - c. Certain Insurers may call Mr. Schroader live and during their case in chief for impeachment.
- 9. Robert West, President - R.A. West Associates, Inc.
 - a. 2110 South Eagle Road, # 359 Newtown, PA 18940
 - b. 215-860-5026
 - c. Certain Insurers intend to call Mr. West live and during their case in chief.
- 10. Chaz Mello, Senior Vice President - J.S. Held LLC
 - a. 1901 Butterfield Road, Suite 420, Downers Grove, IL 60515
 - b. 773-634-5366
 - c. Certain Insurers intend to call Mr. Mello live and during their case in chief.
- 11. Paul Christoferson, Principal - Paul Christoferson Consulting
 - a. 5376 E. Morada Lane, Morada, CA 95212
 - b. 916.790.7322
 - c. Certain Insurers intend to call Mr. Christoferson live and during their case in chief.
- 12. Micah Thoman, Executive General Adjuster - Charles Taylor Adjusting

- a. 1610 E. Carla Vista Drive, Chandler, Arizona 85225
- b. 224-520-0588
- c. Certain Insurers intend to call Mr. Thoman live and during their case in chief.

13. Dolores Varela, General Adjuster - Starr Technical Risks Agency, Inc.

- a. 5151 San Felipe, Suite 200, Houston, TX 77056
- b. 713- 470-1496
- c. Certain Insurers may call Ms. Varela live and during their case in chief.

14. Christopher Kelly, Executive General Adjuster - Zurich (formerly of Ironshore)

- a. 1299 Zurich Way, Schaumburg, Il 60196
- b. 800-382-2150
- c. Certain Insurers may call Mr. Kelly live and during their case in chief.

15. Chip Dickerson, Assistant Vice President, Claims Consultant Property - Axis Surplus Lines Insurance Company

- a. 10000 Avalon Blvd, Suite 200, Alpharetta, GA 30009
- b. 678-746-9566
- c. Certain Insurers may call Mr. Dickerson live and during their case in chief.

16. Shawn Keating, Senior Property Claims Specialist HDI Global Insurance Company

- a. 161 N. Clark Street, Chicago, IL 60601
- b. 312-589-6564
- c. Certain Insurers intend to call Mr. Keating live and in their case in chief.

17. Jerry Provencher, CEO/Executive General Adjuster Provencher & Company

- a. 100 CM Fagan Drive, Suite F Hammond, Indiana 70403
- b. 410-935-1944
- c. Certain Insurers intend to call Mr. Provencher live and in their case in chief.

Certain Insurers also reserve the right to call at trial any individual disclosed by IRG as well as any witness to rebut allegations or contentions put into evidence by IRG or its witnesses.

c. Interstate

1. Mark Miley, CFO - Industrial Realty Group, LLC

- a. 4020 Kinross Lakes Parkway, Suite 200 Richfield, Ohio 44286
- b. Telephone Number Unknown
- c. Certain Insurers intends to call Mr. Miley live and during their case in chief.

2. Peter Yanson, Vice President - Industrial Realty Group, LLC

- a. 4020 Kinross Lakes Parkway, Suite 200, Richfield, Ohio 44286
- b. Telephone Number Unknown

- c. Certain Insurers intend to call Mr. Yanson live and during their case in chief.
- 3. Justin Lichter, Vice President - Industrial Realty Group, LLC
 - a. 4020 Kinross Lakes Parkway, Suite 200, Richfield, Ohio 44286
 - b. Telephone Number Unknown
 - c. Certain Insurers intend to call Mr. Lichter live and during their case in chief.
- 4. Jeffrey J. Pikel (title unknown) - The DeHayes Group
 - a. 11118 Coldwater Road, Fort Wayne, Indiana 46845
 - b. 264-424-5600
 - c. Certain Insurers may call Mr. Pikel live and during their case in chief for impeachment.
- 5. Jerry Graf (title unknown) - Industrial Realty Group, LLC
 - a. 701 W. Chippewa Avenue, South Bend, IN 46614
 - b. Telephone Number Unknown
 - c. Certain Insurers intend to call Mr. Graf live and during their case in chief.
- 6. Kenneth McDaniel, Senior Project Manager - Indiana Department of Environmental Management
 - a. 100 N. Senate Street, Indianapolis, IN 46204
 - b. 317-234-9581
 - c. Certain Insurers may call Mr. McDaniel live and during their case in chief for impeachment.

7. Jeffery Pope, Program Manager - Burns & McDowell
 - a. 1431 Opus Drive, Suite 400, Downers Grove, IL 60515
 - b. 630-724-3700
 - c. Certain Insurers intend to call Mr. Pope live and during their case in chief.
8. Michael Schroader (Title Unknown) - KCOM Environmental
 - a. 1021 E. Wallace Street, Fort Wayne, IN 46803
 - b. 260-745-0520
 - c. Certain Insurers may call Mr. Schroader live and during their case in chief for impeachment.
9. Robert West, President - R.A. West Associates, Inc.
 - a. 2110 South Eagle Road, # 359 Newtown, PA 18940
 - b. 215-860-5026
 - c. Certain Insurers intend to call Mr. West live and during their case in chief.
10. Chaz Mello, Senior Vice President - J.S. Held LLC
 - a. 1901 Butterfield Road, Suite 420, Downers Grove, IL 60515
 - b. 773-634-5366
 - c. Certain Insurers intend to call Mr. Mello live and during their case in chief.
11. Paul Christoferson, Principal - Paul Christoferson Consulting
 - a. 5376 E. Morada Lane, Morada, CA 95212
 - b. 916.790.7322

- c. Certain Insurers intend to call Mr. Christoferson live and during their case in chief.

12. Micah Thoman, Executive General Adjuster - Charles Taylor Adjusting

- a. 1610 E. Carla Vista Drive, Chandler, Arizona 85225
- b. 224-520-0588
- c. Certain Insurers intend to call Mr. Thoman live and during their case in chief.

13. Dolores Varela, General Adjuster - Starr Technical Risks Agency, Inc.

- a. 5151 San Felipe, Suite 200, Houston, TX 77056
- b. 713- 470-1496
- c. Certain Insurers may call Ms. Varela live and during their case in chief.

14. Christopher Kelly, Executive General Adjuster - Zurich (formerly of Ironshore)

- a. 1299 Zurich Way, Schaumburg, Il 60196
- b. 800-382-2150
- c. Certain Insurers may call Mr. Kelly live and during their case in chief.

15. Chip Dickerson, Assistant Vice President, Claims Consultant Property - Axis Surplus Lines Insurance Company

- a. 10000 Avalon Blvd, Suite 200, Alpharetta, GA 30009
- b. 678-746-9566

- c. Certain Insurers may call Mr. Dickerson live and during their case in chief.

16. Shawn Keating, Senior Property Claims Specialist HDI Global Insurance Company

- a. 161 N. Clark Street, Chicago, IL 60601
- b. 312-589-6564
- c. Certain Insurers intend to call Mr. Keating live and in their case in chief.

17. Keith Hargan, Assistant Vice President - Interstate Fire & Casualty Company

- a. 225 W. Washington Blvd., Suite 1800
- b. 415 899-4586
- c. Interstate intends to call Mr. Hargan live and in its case in chief.

18. Jerry Provencher, CEO/Executive General Adjuster Provencher & Company

- a. 100 CM Fagan Drive, Suite F Hammond, Indiana 70403
- b. 410-935-1944
- c. Interstate intends to call Mr. Provencher live and in their case in chief.

6. **Exhibit Lists.**

See attached Exhibit C [ECF 139-3].

7. **Parties' Objections to Witnesses and Exhibits.**

See attached Exhibit D [ECF 139-4].

8. Anticipated Length of Trial.

The parties expect the trial in this matter to last nine days – May 16-19, 22-26.

SO ORDERED.

May 5, 2023

s/ *Damon R. Leichty*
Judge, United States District Court